

“Date”

Ms. Ellen Engemann, Chairman
Housing Authority of New Roads
151 Cherry St.
New Roads, LA 70760

RE: Docket No. 2020-737

Dear Ms. Engemann:

The Louisiana Board of Ethics, at its February 5, 2021 meeting, considered your request for an advisory opinion relative to four issues addressing the Housing Authority of New Roads (“HANR”) as it relates to the appointing authority of its Board of Commissioners.

FACTS PROVIDED

You stated that in 1967, the HANR was created by the City of New Roads pursuant to La. R.S. 40:382. You stated that in 2019, the parish government changed from a Police Jury to a Home Rule Charter; however, New Roads still maintains a mayor and city council. You stated that the Mayor of New Roads is a landlord who receives rent from tenants who participate in the HUD Section 8 program that is supervised by HANR. You stated that the HANR Board of Commissioners, at its meeting on October 7, 2020 voted unanimously to request an opinion on the following items:

1. Who is responsible for appointing the members of the housing authority board of commissioners, in light of a change from a Police Jury to a Home Rule Charter in 2019?
2. Whether the mayor can appoint a board member to HANR when the mayor receives rent from tenants who participate in the HUD Section 8 program?
3. Whether the mayor can appoint a board member to HANR who is employed by a business entity owned by the mayor?
4. Whether the mayor can appoint a board member to HANR who is a former campaign manager?

The Mayor of New Roads, Cornell Dukes provided that one of the persons he appointed to serve on the HANR Board is an employee of a finance company he owns, however that company does not do business with HANR and is not under the jurisdiction or supervision of HANR.

LAW

La. R.S. 42:1112A prohibits a public servant from participating in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity.

La. R.S. 42:1112B(1) prohibits a public servant from participating in a transaction involving the governmental entity in which, to his actual knowledge, any member of his immediate family has a substantial economic interest.

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La. R.S. 42:1112B(4) prohibits a public servant from participating in a transaction involving the governmental entity in which, to his actual knowledge, any person with whom he is negotiating or has an arrangement concerning prospective employment has a substantial economic interest.

La. R.S. 42:1112B(5) prohibits a public servant from participating in a transaction involving the governmental entity in which, to his actual knowledge, any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes any thing of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interest of such public servant.

La. R.S. 42:1111C(2)(d) prohibits a public servant and a legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, from receiving any thing of economic value for services rendered from a person who has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency.

La. R.S. 40:384(16) provides that a "Local Housing Authority" is a political subdivision of this state, independent from the municipality or parish which established it or which may appoint some or all of its commissioners.

CONCLUSION

ISSUE NO. 1:

The Board concluded and instructed me to inform you, the Code of Governmental Ethics (Ethics Code) does not determine who is responsible for appointing board members to HANR, but would suggest that you to seek an opinion from the Louisiana Attorney General's Office relative to this issue.

ISSUE NO. 2:

The Board concluded and instructed me to inform you, the Ethics Code would not prohibit the Mayor of New Roads from appointing board members to HANR, unless the person is employed by the mayor to work on or at property that houses tenants that participate in the Section 8 Housing Program under the jurisdiction of HANR.

ISSUE NO. 3:

The Board concluded and instructed me to inform you, the Ethics Code would not prohibit the Mayor of New Roads from appointing an employee of his personal business to serve as a board member of HANR, unless the person so appointed would be an immediate family member, a person with whom he is negotiating or has an arrangement concerning prospective employment, or a person who has an existing contract with him, and by reason thereof is in a position to affect directly the economic interests of the mayor.

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ISSUE NO. 4:

The Board concluded and instructed me to inform you, the Ethics Code would not prohibit the Mayor of New Roads from appointing a former campaign manager to serve as a board member of HANR, unless the person so appointed would be an immediate family member, a person with whom he is negotiating or has an arrangement concerning prospective employment, or a person who has an existing contract with him, and by reason thereof is in a position to affect directly the economic interests of the mayor.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts presented may result in a different application of the provisions of the Code of Ethics. The Board issues no opinion as to past conduct or laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and conflict of interest provisions in the gaming laws. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Sincerely,

LOUISIANA BOARD OF ETHICS

Gregory L. Thibodeaux
For the Board

DISCLAIMER
This is a draft opinion and it is **NOT** an opinion of the Louisiana Board of Ethics. The analysis and conclusions herein are provided for informational purposes only and are subject to change or revision at the meeting of the Board of Ethics at which this draft opinion is considered.
No party may rely on the facts or conclusions.